IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

FRIDAY, THE 28TH SEPTEMBER 2007 / 6TH ASWINA 1929

OP.No. 16506 of 1998(M)

PETITIONER:

THE REGIONAL PROVIDENT FUND COMMISSIONER, SUB REGIONAL OFFICE, KOCHI : 682 017.

BY ADV. SRI.N.N.SUGUNAPALAN (SR.)

RESPONDENTS:
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1. **M/S.MECHANICAL ASSEMBLY SYSTEM (INDIA) LIMITED; MAYITHARA, ALLEPPEY DISTRICT, REP: BY ITS MANAGING DIRECTOR.**

2. **M/S.CONTINENTAL PAPER MILLS, MAYITHARA MARKET P.O., CHERTHALA P.O., ALAPPUZHA DISTRICT, REP: BY ITS MANAGING DIRECTOR.**

3. **EMPLOYEES PROVIDENT FUND APPELLATE TRIBUNAL, NEW DELHI.**

BY ADV. SRI.K.ANAND (A.201)
SMT.LATHA KRISHNAN

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 28/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

ORDER ON CMP.NO.29328 OF 1998 IN OP.NO.16506 OF 1998-M.

DISMISSED.

28.9.2007. **Sd/- T.R.Ramachandran Nair, Judge.**

Petitioner's Exhibits:-

Ext.P1: **Copy of the proceedings of the Regional Provident Fund Commissioner dtd.28.3.1996.**

Ext.P2: **Copy of the petition under Section 19A preferred by respondents 1 and 2 dtd.14.6.1996.**

Ext.P3: **Copy of the order of the Appellate Tribunal dtd.1.9.1997.**

Respondents' Exhibits:- **Nil.**

(true copy)

P.A. TO JUDGE.

Kvs/-

T.R.RAMACHANDRAN NAIR, J.

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O.P.No. 16506 of 1998-M.

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Dated this the 28th day of September, 2007.

J U D G M E N T

This writ petition is filed by the petitioner who is the Regional Provident Fund Commissioner, Employees' Provident Fund Organisation challenging Ext.P3 order passed in an appeal by the Employees' Provident Fund Appellate Tribunal, Delhi. The facts of the case show that the petitioner has issued proceedings under Section 7A of the Employees' Provident Fund and Miscellaneous Provisions Act, 1952 dated 28.3.1996. This was under challenge before the appellate authority in a statutory appeal, which was disposed of by Ext.P3. Various grounds have been raised to show that Ext.P3 has been passed illegally.

2. The position is well settled that a quasi judicial authority has no locus standi to challenge such an order passed by the appellate authority. This question was considered by a learned Single Judge in Divisional Forest Officer v. Pushpan (1983 KLT 951). It was held that a quasi judicial authority who passes an order, becomes functus officio as far as the case is concerned. He cannot ignore or challenge the decision of the appellate

authority. The relevant findings rendered in para.5 makes the legal position clear. It is extracted herewith:

> **"5. The right to confiscate under the Forest Act is vested in the authorised officer, the Divisional Forest Officer. He exercises a quasi judicial function. He has to observe the principles of natural justice, conform to the procedure prescribed under the Act, apply his own mind and then decide on the evidence whether confiscation is necessary in the circumstances of the case. For this purpose he functions as a Tribunal. He has no personal or official interest in the cause. He has to be just and upright; fair and impartial. After he issues the order, he has to more interest in the proceeding. He becomes functus officio as far as the case is concerned. He is the lowest in the heirarchy under the Act. His decision is subject to revision under S.61C of the Act and appealable under S.61D. The District Judge is the appellate authority. Administrative discipline, judicial decorum and the statutory safeguards demand that he abides by the decision in appeal. He cannot ignore or challenge the decision of the appellate authority. Challenge, if any, can be made by other aggrieved persons or authorities; but not by the Tribunal. If he cannot challenge the decision of the appellate authority, he cannot have recourse to writ proceedings to achieve the same object."**

I agree with the above view. In the light of the above, I hold that this writ petition is not maintainable as the petitioner cannot be said to be an aggrieved party as far as order passed by the appellate authority is concerned.

3. Herein, Ext.P1 is an order passed under Section 7A of the Act. It is a quasi judicial order. The petitioner was functioning as a quasi judicial authority. He cannot therefore be said to be an aggrieved party, to maintain challenge against the appellate order, passed by the Tribunal. The learned counsel for the petitioner submitted that this shall not stand in the way of the

right of any competent authority to challenge the order. The dismissal of the writ petition will be without prejudice to the right of any competent authority to challenge the order, if it is permissible under law.

With the above observation, this Original Petition is dismissed.

T.R.RAMACHANDRAN NAIR, JUDGE.

Kvs/-